

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TYLER RHIVES	,	)	
		)	
Plaintiff,		)	
		)	Cause No.
v.		)	
		)	
PROGRESSIVE CASUALTY		)	
INSURANCE COMPANY,		)	
		)	<b>JURY TRIAL DEMANDED</b>
Defendant.		)	

**NOTICE OF REMOVAL**

COMES NOW the Defendant Progressive Casualty Insurance Company, by and through counsel, and for its Notice of Removal requesting removal of the Plaintiff's cause of action to this Court from the Circuit Court of the City of St. Louis, State of Missouri pursuant to Sections 1332 and 1441(a) of the United States Code states as follows:

1. Plaintiff commenced his action in the Circuit Court of the City of St. Louis, Missouri, on or about May 17, 2019, which was assigned Cause Number 1922-CC01016.
2. Copies of all pleadings filed to date in the underlying cause are attached hereto as Exhibit A, and a copy of the state court's docket is attached as Exhibit B.
3. Defendant hereby requests the removal of said action to the United States District Court for the Eastern District of Missouri, Eastern Division, based upon the existence of diversity of citizenship between Plaintiff and Defendant pursuant to the diversity jurisdiction of this Court and 28 U.S.C. Section 1332(a)(1).

4. The United States District Court for the Eastern District of Missouri, Eastern Division, is the federal district court embracing the City of St. Louis, State of Missouri, where the plaintiff's action is currently pending.

5. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. Section 1332(a)(1), and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. Section 1441(a), in that:

- a. Plaintiff was a citizen and resident of the State of Missouri at the time of the occurrence described in the Plaintiff's Petition and continues to be and remains a resident of the State of Missouri up to and including the present times.
- b. Defendant was, at the time of commencement of this action, and still is, a corporation incorporated under the laws of the State of Ohio with its principal place of business in Mayfield Village, Ohio, and not in Missouri.
- c. Defendant is mistakenly identified in this lawsuit as the insurer of Plaintiff's father. Plaintiff's father was insured through a policy of insurance issued by Progressive Advanced Insurance Company, and Progressive Advanced Insurance Company is an Ohio corporation with its principal place of business in Mayfield Village, Ohio.
- d. Plaintiff seeks damages in excess of \$75,000.00 in that:
  - (1) Plaintiff has alleged injuries and damages including:
    - (a) physical and permanent injury to his head (closed head injury/concussion), chest, shoulders, spinal column, collarbone, upper and lower back, arms, legs, pelvis, hands, knees, and feet and that all bones, joints, tendons, tissues, ligaments, cartilages, muscles,

nerves, membranes, discs, skin, and blood vessels of said body parts were bruised, contused, separated, abraded, lacerated, cut, torn, wrenched, sprained, strained, fractured, limited in motion and rendered painful;

- (b) mental shock;
- (c) damage to his nervous system which has been weakened and impaired;
- (d) serious and permanent injuries involving loss of sleep, nervousness, mental anxiety, depression, and irritability;
- (e) serious, permanent impairment to his body parts and organs;
- (f) lost wages; and
- (g) that each of his injuries are painful, progressive, continuing in nature, permanent, disabling, and severe.

(Exhibit A, Petition ¶ 17.)

- (2) Plaintiff alleges that he demanded the amount of his loss from Defendant (Exhibit B, Petition ¶ 19), Plaintiff demanded \$300,000.00 from Defendant. (Exhibit C.)
- (3) Plaintiff alleges damages for Defendant's purported vexatious refusal to pay and seeks interest, statutory penalties and damages, and attorneys' fees pursuant to Sections 375.296 and 375.420 of the Revised Statutes of Missouri. (Exhibit A, Petition ¶ 22.)

- 6. To date, Progressive Casualty Insurance Company has not been served.

WHEREFORE, Defendant Progressive Casualty Insurance Company respectfully requests this Court to remove Plaintiff's cause of action to the United States District Court for the Eastern District of Missouri.

Respectfully submitted,

**BRINKER & DOYEN, LLP**

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*Attorney for Defendant Progressive Casualty  
Insurance Company*

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing document was filed via the court's electronic filing system on the 28<sup>th</sup> day of June 2019, with notice of case activity to be generated and served electronically by the court upon the following:

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